LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7487
BILL NUMBER: SB 374

NOTE PREPARED: Feb 1, 2007
BILL AMENDED:

SUBJECT: Transfer of research expense tax credits.

FIRST AUTHOR: Sen. Simpson
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that a taxpayer that is entitled to a Research Expense Tax Credit may sell, assign, convey, or otherwise transfer any unused part of the Research Expense Tax Credit that exceeds the taxpayer's tax liability.

Effective Date: January 1, 2008.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses as a result of allowing taxpayers to transfer tax credits. The bill allows DOR to adopt rules to administer the tax credit transfer process. The DOR also may have to revise tax forms, instructions, and computer programs for purposes of tax credit transfers. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues: The bill would reduce state Adjusted Gross Income (AGI) Tax, Insurance Premiums Tax, Financial Institutions Tax or other state tax liabilities of individual and corporate taxpayers that obtain unused Research Expense Tax Credits from other individual and corporate taxpayers. Data is unavailable indicating the amount of outstanding tax credits that are not used from year to year. Assuming unused credit amounts would eventually be utilized, this change has no long-run fiscal impact. Rather, the change likely provides for more timely use of credits obtained by taxpayers whose tax liabilities are not sufficient to exhaust the credits in one year. As a result, the bill could potentially lead to a significant short-term increase in the use of tax credits beginning in FY 2008 and FY 2009.

The bill allows a taxpayer to transfer sell, assign, convey, or otherwise transfer the Research Expense Tax Credits to another taxpayer beginning in tax year 2008. A taxpayer may transfer only the tax credit amounts that exceed the taxpayer's tax liability.

Revenue from the AGI Tax on corporations, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. The revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Since the bill is effective beginning in tax year 2008, the fiscal impact could potentially begin in FY 2008 if taxpayers adjust their quarterly estimated payments.

General Information and History About the Research Expense Credit: P.L. 242-2002 (ss) increased this credit from 5% to 10% of qualified expenses for tax years beginning January 1, 2003, and eliminated the apportionment factor used to calculate the credit. P.L. 81-2004 made this tax credit permanent. P.L. 193-2005 increased the credit to 15% on the first $1,000,000 of investment for tax years beginning January 1, 2008, and reduced from 15 to 10 the number of years for which a taxpayer may carry over a research expense credit. P.L. 197-2005 established an alternative calculation of the Research Expense Tax Credit for a taxpayer that: (1) is primarily engaged in the production of civil and military jet propulsion systems; (2) is certified by the Indiana Economic Development Corporation (IEDC) as an aerospace advanced manufacturer; (3) is a U.S. Department of Defense contractor; and (4) maintains one or more manufacturing facilities in Indiana employing at least 3,000 full-time employees in positions that pay on average more than 400% of the hourly state minimum wage. The credit under the alternative calculation method is equal to 10% of the difference between: (1) the taxpayer's Indiana qualified research expenses during the taxable year; and (2) 50% of the taxpayer's average Indiana qualified research expenses for the three preceding taxable years.

The Research Expense Credit is available for individuals, corporations, limited liability companies, limited liability partnerships, trusts, or partnerships who have increased research activities conducted in Indiana. The credit is calculated based on the increased expenses a taxpayer incurred over their base-year expenditures. The base-year expenditures are measured for taxable years beginning after December 31, 1989, and are equal to the federal base amount as defined in the Internal Revenue Code (2001). A taxpayer is not entitled to a carryback or refund, but may carry forward the tax credit for 10 years. The base-year expenses may not be less than 50% of the current tax year's qualified research expenses.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Diane Powers, 317-232-9853.